

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

LEE RONALDO MALDONADO §
VS. § CIVIL ACTION NO. 4:05cv91
DOUGLAS DRETKE §

MEMORANDUM ORDER OVERRULING PETITIONER'S OBJECTIONS AND ADOPTING
THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Petitioner Lee Ronaldo Maldonado, an inmate confined at the Stiles Unit, proceeding *pro se*, brought this petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254.

The court referred this matter to the Honorable Don D. Bush, United States Magistrate Judge, at Sherman, Texas, for consideration pursuant to applicable laws and orders of this court. The Magistrate Judge recommends the petition be dismissed as repetitious.

The court has received and considered the Report and Recommendation of United States Magistrate Judge filed pursuant to such order, along with the record, pleadings and all available evidence. Petitioner filed objections to the magistrate judge's Report and Recommendation. This requires a *de novo* review of the objections in relation to the pleadings and the applicable law. See FED. R. CIV. P. 72(b).

Petitioner asserts that he did not file a second petition but merely delivered three copies of the same petition to the law

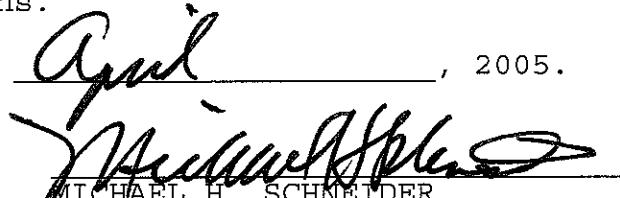
library for mailing. Thus, it appears the petition, while repetitious of the first, was improvidently filed. Petitioner requests that any dismissal of this petition be without prejudice to his ability to file another petition.

After careful consideration, the court concludes Petitioner's objections should be overruled. However, the petition will be dismissed without prejudice as improvidently filed.

O R D E R

Accordingly, Petitioner's objections are **OVERRULED**. The findings of fact and conclusions of law of the magistrate judge are correct and the report of the magistrate judge is **ADOPTED**. A final judgment will be entered in this case in accordance with the magistrate judge's recommendations.

SIGNED this 27th day of April, 2005.


MICHAEL H. SCHNEIDER
UNITED STATES DISTRICT JUDGE